

Docket No: A.21-12-007

Exhibit No: NCTC-1

Date: May 31, 2022

Witness: Violet Sage Walker

**Prepared Testimony of Violet Sage Walker on behalf of
the Northern Chumash Tribal Council
Regarding
Application of Pacific Gas and Electric Company in the
2021 Nuclear Decommissioning Cost Triennial Proceeding (U39E)**

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1 **1. INTRODUCTION AND BACKGROUND.**

2 **Q. Please state your name and business address.**

3 A. My name is Violet Sage Walker. My business address is PO Box 6533, Los Osos CA
4 93412.

5 **Q. What is your tribal affiliation and role within the tribe?**

6 A. I am the Tribal Chair for the Northern Chumash Tribal Council (“NCTC”).

7 **Q: Please describe your background, experience and expertise.**

8 A. I am an indigenous Californian, a Northern Chumash descendant of Avila Beach and San
9 Luis Obispo County. In addition to my roles as Tribal Chair for the NCTC and spokesperson for
10 the proposed Chumash Heritage National Marine Sanctuary, I am a cultural resource specialist
11 and business owner. I am heavily involved with my local community in the County of San Luis
12 Obispo, and have created several programs that introduce community members to Chumash
13 culture and traditions, such as the Chumash Kitchen.

14 I hold a Bachelor of Arts degree in Political Science, with an emphasis in American
15 Politics/Pre-Law and Religious Studies from the California State University, Bakersfield.

16 **Q. Please describe the NCTC.**

17 A: On April 26, 2006, the Northern Chumash Tribal Council was formed under the
18 guidelines of California Senate Bill 18. NCTC is one of several California Native American
19 tribes located in San Luis Obispo County, and is on the list maintained by the Native American
20 Heritage Commission as being traditionally and culturally affiliated with the area. As
21 documented through extensive oral traditions, birth records, and historical records, NCTC’s
22 ancestral territory spans the Northern Chumash Coast, from Ragged Point to Point Conception,

1 which includes the site of and lands surrounding the Pacific Gas and Electric Company
2 (“PG&E”) Diablo Canyon Power Plant (“DCPP”).

3 For more than 25 years, NCTC has been actively involved in partnerships with other
4 tribes, governmental agencies, non-profits, and non-governmental organizations for the
5 advancement of community preservation projects, including the use of traditional ecological
6 knowledge to address modern environmental concerns and consultation with local governments
7 to ensure that cultural resources are properly respected during land use planning processes.
8 NCTC is dedicated to meaningful consultations with local governments, agencies, and the
9 development community, and is actively engaged in environmental issues, climate change, and
10 supporting tribal community well-being.

11 As just one example of the many partnerships in which NCTC has been involved, in July
12 2015, NCTC submitted a nomination to the National Oceanic and Atmospheric Administration
13 (“NOAA”) Office of National Marine Sanctuaries for the Chumash Heritage National Marine
14 Sanctuary located along the south-Central California coastline.¹ The boundaries of the Sanctuary
15 would extend from Gaviota Creek in Santa Barbara to Santa Rosa Creek in Cambria, excluding
16 any overlap with the proposed Morro Bay Wind Energy Area. Codependent onshore resources
17 include the high coastal dunes, wetlands and Chumash sacred sites, some of which have been
18 continuously occupied for 9,000 or more years. The Sanctuary is the first Tribal-nominated
19 national marine sanctuary designation in the United States. If designated, the Sanctuary will
20 provide unique opportunities for Tribal and community-based input into the management of
21 coastal resources.

¹ <https://chumashsanctuary.org/partners/>

1 **Q. On whose behalf are you presenting testimony?**

2 A. I am testifying on behalf of NCTC.

3 **Q. What is the purpose of your testimony?**

4 A. The purpose of my testimony is to address why PG&E's proposed land disposition
5 strategy should be considered in this proceeding, and whether the policy as proposed allows for
6 proper future application of the CPUC's Tribal Land Transfer Policy ("TLTP"). I will provide
7 background information on the Tribal Land Transfer Policy. I will discuss PG&E's proposed
8 land disposition strategy. I will discuss effective consultation and notification strategies for
9 Tribes, including the reasons why consultation and Tribal outreach is important. Finally, I will
10 offer refinements to PG&E's proposed land disposition strategy that better incorporate
11 appropriate Tribal notification and consultation procedures for disposition of the Diablo Canyon
12 lands and facilities.

13 **Q. Please describe NCTC's interest in Pacific Gas and Electric Company's Application**
14 **in the 2021 Nuclear Decommissioning Cost Triennial Proceeding ("NDCTP").**

15 A. NCTC is interested in PG&E's Application in the 2021 Nuclear Decommissioning Cost
16 Triennial Proceeding for two reasons.

17 First, NCTC is interested in this proceeding because the DCPD is located on our Tribe's
18 ancestral lands. Several of our Tribe's sacred sites are located on the site of the DCPD and
19 surrounding lands. We want to ensure that decommissioning of the facility is done safely,
20 responsibly, and in a manner that is both respectful and mindful of the Tribal cultural resources
21 located on the site.

22 Second, NCTC is interested in this proceeding because PG&E anticipates that Diablo
23 Canyon lands and facilities will be available for acquisition. NCTC wants to ensure that all

1 Tribes that are culturally and traditionally affiliated with the Diablo Canyon lands are given the
2 opportunity to acquire ancestral lands. NCTC wants to ensure that there is both (1) a fair and
3 equitable opportunity for Tribes to acquire lands proposed for disposition, and (2) a clear and
4 transparent process for land acquisition that provides ample notice to Tribes and meaningful
5 consultation opportunities. Participation of the Tribes is essential to ensure that disposition of
6 the Diablo Canyon lands is done in a way that is respectful of Tribal connections to this land.

7 **2. DISCUSSION OF PG&E'S PROPOSED LAND DISPOSITION STRATEGY.**

8 **Q. Should PG&E's proposed land disposition strategy for the Diablo Canyon lands and**
9 **facilities be considered as part of this proceeding?**

10 A. Yes. PG&E's proposed land disposition strategy should be considered as part of this
11 proceeding for two reasons: (1) the unique circumstances arising from disposition of the Diablo
12 Canyon lands and facilities, and (2) to ensure that the purpose of the CPUC's TLTP is fulfilled.

13 **Q. Please explain the unique circumstances for disposition of the Diablo Canyon lands.**

14 A. The Diablo Canyon lands are unique with respect to the number of potential dispositions
15 that may occur, the number of interested stakeholders, the intertwined issues of decommissioning
16 of certain facilities and repurposing of others, and the timing for such disposition. In short, the
17 expected disposition of Diablo Canyon lands and facilities raises unique issues and a degree of
18 complexity that likely would not arise in other applications for utility disposition of real
19 property. As a result of this complexity, it is very difficult for Tribes, particularly smaller Tribes
20 like the NCTC, to fully understand which properties will become available for acquisition and
21 the process to do so.

1 **Q. What is your understanding of why the CPUC’s TLTP was adopted?**

2 A. My understanding is that the TLTP was adopted for the following reasons set forth in
3 Resolution E-5076:

4 In adopting the TLTP, the CPUC affirms its respect for Tribal
5 sovereignty, supports the protection of Tribal sacred places and
6 resources, and seeks to ensure meaningful consideration of Tribal
7 interests, including the return of lands within the Tribe’s ancestral
8 territory.²

9 The importance of ancestral land return is also recognized in the Governor’s recent May
10 Revision to the 2022-2023 Budget. The Governor’s May Revision specifically identifies two
11 tribal initiatives that are relevant to this proceeding: (1) increased access and co-management of
12 lands and (2) ancestral land return.³ The Governor’s May Revision further “recognizes the
13 important role that tribes play in conserving lands, promoting best practices in enhancing fish
14 and wildlife conditions, and meeting the state’s goals as outlined in various climate-related
15 plans.”⁴

16 **Q. What is your understanding of what the TLTP requires of investor-owned utilities?**

17 A. My understanding of the CPUC’s TLTP is that it requires investor -owned utilities
18 (“IOUs”), such as PG&E, to take affirmative steps to determine whether Tribes are interested in
19 purchasing utility-owned property that is proposed for disposition prior to such disposition.⁵

20 **Q. Please summarize the affirmative steps that are required by the TLTP.**

21 A. The affirmative steps that IOUs must take when disposing of utility-owned real property
22 include identification of Tribes relevant to the territory on which the real property is located,

² Resolution E-5076, p. 5.

³ May Revision to Governor’s Budget, Climate Change Section, p. 60, at
<https://www.ebudget.ca.gov/2022-23/pdf/Revised/BudgetSummary/ClimateChange.pdf>.

⁴ Id., p. 59.

⁵ <https://www.cpuc.ca.gov/about-cpuc/divisions/office-of-the-tribal-advisor/tribal-land-transfer-policy/tltp-implementation-guidelines>. .

1 written notice to the Tribes, a period for Tribes to express interest in acquisition of the real
2 property, and a period for Tribal due diligence and good-faith negotiation if the Tribe expresses
3 interest in acquiring the real property. Finally, the TLTP “provides Tribes the right of first offer
4 on the property before the IOU may put the property on the open market.”⁶

5 **Q. Please describe PG&E’s Proposed Land Disposition Strategy.**

6 A. PG&E’s proposed land disposition strategy is described in Figure 6-1 of Chapter 6 of
7 PG&E’s testimony and appears to provide for a stakeholder engagement process that directs
8 interested parties to the DCPD decommissioning webpage.⁷ While this testimony mentions tribal
9 outreach and the CPUC’s TLTP, it is not clear to me how PG&E will conduct outreach
10 specifically to Tribes. Further, it is not clear from this figure how a Tribe’s “right of first offer
11 before the IOU may put the property on the open market” is incorporated into this strategy.⁸

12 **3. REFINEMENTS TO PG&E’S PROPOSED LAND DISPOSITION STRATEGY.**

13 **Q. If the CPUC decides to consider PG&E’s land disposition strategy for the DCPD as**
14 **part of this proceeding, do you have any concerns with the proposed strategy?**

15 A. Yes. I have several concerns. First, I am concerned that there is no clear process for how
16 Tribal outreach will be conducted with respect to the disposition of Diablo Canyon lands and
17 facilities. Second, I am concerned that there is no clear statement for how the Tribal “right of
18 first offer” will be honored in this process. Third, I am concerned that the lack of clear and
19 transparent information regarding available properties—or properties that are expected to be
20 subject to disposition pursuant to the TLTP—could prevent Tribes from being able to effectively

⁶ Resolution E-5076, p. 2; see also <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/bco/tribal/tribal-land-transfer-policy-implementation-workshop-1-pager-329.pdf>

⁷ PG&E Testimony, Ch. 6, at p. 6-21.

⁸ Id., at pp. 6-19 et seq.

1 exercise their legal right to acquire ancestral lands that comprise the DCPD site and surrounding
2 lands.

3 **Q. Do you believe that refinements to the proposed strategy are necessary?**

4 A. Yes. NCTP strongly supports the CPUC's TLTP and has submitted comments in the
5 newly instituted TLTP proceeding (R.22-02-002). As stated in our opening comments, more
6 notice to, and consultation with, Tribes should be a fundamental part of the TLTP, particularly in
7 complex situations such as that presented by the Diablo Canyon lands and facilities. The notice
8 and consultation should ensure that Tribes receive actual advance notice, where feasible. Further,
9 Tribes should be informed of what specific actions are contemplated and how they can provide
10 feedback. Finally, NCTC supports actual engagement and conversations with Tribes, since in
11 some cases Tribes either may not have access to or do not use electronic mediums. PG&E's
12 proposed land disposition strategy seems to rely heavily on electronic mediums, e.g., interested
13 parties are directed to a central webpage and all information appears to be virtual. This may be
14 sufficient for some interested parties, but information needs to be presented through other means
15 as well to ensure that all interested parties are actively engaged in the process.

16 **Q. How can PG&E's Proposed Land Disposition Strategy be refined to better facilitate**
17 **discussions with the tribes?**

18 A. First, NCTC recommends that PG&E incorporate, as part of its outreach program, a
19 meeting that is specifically targeted to Tribes that are culturally and traditionally affiliated with
20 the Diablo Canyon lands. Topics covered in that meeting should include a brief summary of the
21 expected decommissioning of the DCPD, potential repurposing of facilities, and properties that
22 are expected to be available for acquisition. This meeting should be prior to, and separate from
23 the formal right of first offer notification called for in the TLTP Guidelines.

1 **Q. Please summarize your testimony.**

2 A. The decommissioning of the DCP, recommissioning of the site, and potential for return
3 of ancestral land to local Tribes present a once in a lifetime opportunity for the community. My
4 goal is to ensure that all affected Tribes are appropriately included in the process and given a fair
5 chance to acquire ancestral lands that become available for disposition by PG&E. Given the
6 complexities of the intertwined issues: decommissioning of the DCP, potential reuse of certain
7 facilities and not others, and disposition of other Diablo Canyon lands and facilities, it is
8 essential that PG&E's proposed land disposition strategy not only comply with the TLTP, but
9 incorporate additional notice and outreach efforts with the Tribes as described in my testimony
10 above.

11 **Q. Does this complete your testimony?**

12 A. Yes, it does.